

20 October 1959

MEMORANDUM FOR: Dr. Herbert Scoville, Jr.

SUBJECT: Proposed Executive Order - Transmission of Restricted Data.

1. Reference is made to your telephone conversation yesterday afternoon with Mr. John S. Warner.
2. There is forwarded herewith for your suggestion and comment, the draft proposed Executive Order, together with a proposed covering letter for the Director to the Bureau of the Budget. There is also enclosed a proposed memorandum for the Director of Central Intelligence setting forth general background information.
3. Upon transmission of this material to the Director, it is intended that a buckslip request be made that you and Mr. Warner, or your designees, be permitted to discuss this matter orally with the Director in order to provide additional background not contained in the memorandum.

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[Redacted]  
Assistant General Counsel

Attachments  
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Orig & 1 - Addressee  
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DRAFT  
OGC: JGO:mmw  
20 October 1959

Honorable Maurice H. Stans  
Director  
Bureau of the Budget  
Washington 25, D.C.

Dear Mr. Stans:

There is forwarded herewith a proposed Executive Order to authorize the Central Intelligence Agency to communicate, in accordance with the terms and conditions of agreements for cooperation arranged pursuant to subsections 144a, b, or c of the Atomic Energy Act of 1954, as amended, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved. Section 144d, which was added to the Atomic Energy Act of 1954 by Public Law 85-479, dated July 2, 1959, specifically provides for such an authorization by the President for any agency of the United States.

The background relating to the transfer of Restricted Data for intelligence purposes was summarized in part on our letter of September 19, 1958, in commenting on the provisions of the draft of Executive Order 10841, dated September 30, 1959, entitled "Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1951, as amended, Relating to International Cooperation." As was indicated in that letter a very effective and profitable exchange of atomic energy intelligence information has been developed and conducted with the United Kingdom during the past ten years. The Central Intelligence Agency has provided the focal point and channel for the exchange of this information, and pursuant to a letter from President Truman to the Chairman of the Atomic Energy

Commission, dated June 25, 1952, has prescribed the mechanism for disseminating ~~for~~ intelligence purposes the limited amount of Restricted Data information authorized for exchange. Public Law 85-479 and the United States - United Kingdom bilateral agreement make possible significant increases in this collaboration and the cooperation authorized by the President in the exchange of United States nuclear weapons design data provides a meaningful frame of reference for the exchange of corresponding Restricted Data information on Soviet nuclear weapons. Authority granted to the Central Intelligence Agency to communicate for intelligence purposes will permit the continuation of the previous practices in this field in providing a focal point for this effort and insuring adequate coordination and representation of the various intelligence agencies which have a keen interest in this vital area. It will avoid the necessity of authorization by the President presently required in each instance where transmission under the authority of section 144d of the Act is desired.

With regard to Executive Order 10841, which was approved on September 30, 1959, a determination was made by the Bureau that it was desirable to include in that Order only the delegation of certain responsibility vested in the President under section 31(c), 144a, 144b, and 144c of the Atomic Energy Act of 1954, as amended by Public Law 85-479 and to exclude the delegation of authorities under section 144d which were requested in our letter of September 19, 1958. It is now necessary to provide, by separate order, the delegation authorized by section 144d of the Act.

~~The matter of~~ Authorization by the President of transmission of Restricted Data for intelligence purposes under section 144d of the Act

has been under consideration for well over a year and has been the subject of many discussions with representatives of the Atomic Energy Commission and the Department of Defense. The proposed Order forwarded herewith was drafted by representatives of the Atomic Energy Commission and is identical with the draft forwarded to us informally under date of August 18, 1959, except for the last sentence. The phrase "to recipients approved by the Central Intelligence Agency, the Atomic Energy Commission and the Department of Defense and shall be" was deleted by this Agency as unacceptable for the reasons set forth below. The sentence as proposed by AEC provided:

"Such communications shall be to recipients approved by the Central Intelligence Agency, the Atomic Energy Commission and the Department of Defense and shall be through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved." (Portion deleted underscored)

Since it may not be assumed that the word "recipient" used in the quoted phrase set forth relates to the parties to the agreement, we find that a procedure which would require additional agreement regarding individuals to whom material might be transmitted under the bilateral agreements inconsistent with existent agreements relating to transfer of military and other Restricted Data. Existing agreements make specific provision by security annex for clearance and authorization of individuals whomay be allowed access to such information. It follows therefrom that once appropriate determination has been made that an item of information is transmissible in accordance with an existent agreement there is no action that reasonably need be taken with regard to "approval of recipients."

Executive Order 10841 having been approved on September 30, 1959

without the inclusion of authorization for the Central Intelligence Agency under section 144d of the Act for the transmission of Restricted Data for intelligence purposes, it is requested that a review and approval of the proposed order forwarded herewith be provided as expeditiously as possible.

Sincerely,

Allen W. Dulles

Attachment:

EXECUTIVE ORDER

AUTHORIZATION FOR THE COMMUNICATION OF RESTRICTED  
DATA BY THE CENTRAL INTELLIGENCE AGENCY

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By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 USC 2011, et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States;

I hereby authorize the Central Intelligence Agency to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the Act, such Restricted Data and data removed from the Restricted Data category under section 142d of the Act, as is (a) determined in consonance with the provisions of the Act to be transmissible under the agreement for cooperation involved and (b) approved for each such communication by the Atomic Energy Commission and the Department of Defense. Such communications shall be through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved.

THE WHITE HOUSE

, 1959